

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	8:11MJ167
Plaintiff,)	
)	
vs.)	ORDER
)	FOR DETENTION OF WITNESS
)	MERCEDES TAPIA-BORJAS
JUANA TAPIA-BORJAS,)	
)	
Defendant.)	

This matter is before the court on the application of the United States for the arrest and detention of a material witness, Mercedes Tapia-Borjas. The court having found that the application set forth the materiality of the witness's testimony in the above-captioned matter and that it may become impracticable to secure the presence of the witness by subpoena, an arrest warrant was issued for the arrest of witness Mercedes Tapia-Borjas pursuant to 18 U.S.C. § 3144. Following the witness' arrest, the witness Mercedes Tapia-Borjas was brought before the undersigned magistrate judge for a hearing.

Mercedes Tapia-Borjas appeared with her court-appointed counsel, Rex J. Moats. The United States was represented by Assistant U.S. Attorney Christopher L. Ferretti. During the hearing, Laura Garcia-Hein, a certified interpreter in the Spanish language, was present.

The material witness offered no evidence. I find that the testimony of Mercedes Tapia-Borjas would be material in this criminal proceeding against Juana Tapia-Borjas. I further find that it may become impracticable to secure the presence of the witness by subpoena if the witness absconds to Mexico if she were released from custody on conditions. Since the INS has placed a detainer with the U.S. Marshal for removal proceedings with regard to the witness and the witness has no roots in this community or state, I find that there is no

condition or combination of conditions that would reasonably assure the presence of the witness for the upcoming criminal proceedings in this matter if he was released on conditions.

IT IS ORDERED:

1. The witness, Mercedes Tapia-Borjas, is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The witness shall be afforded a reasonable opportunity for private consultation with her counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the witness to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

2. The government shall forthwith seek to take the deposition of Mercedes Tapia-Borjas pursuant to Fed. R. Crim. P. 15(a)(2). Any motion or request for a deposition of the witness pursuant to Fed. R. Crim. P. 15(a) and 18 U.S.C. § 1344 shall be served on all parties to this case.

DATED this 27th day of July, 2011.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge